



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

**Agenda**

**Meeting of November 6, 2003**

9:00 a.m., Commission Offices, 242 State Street, Augusta, Maine

**ROUTINE BUSINESS**

**1. Ratification of minutes of October 8, 2003 meeting**

**NEW BUSINESS**

**2. Penalty Determinations**

**Pete Didisheim/National Resources Council of Maine**

Monthly Lobbyist Report

Due 10/15/03; filed 10/16/03 – 1 day late

Statutory Penalty: \$100

Staff Recommendation: \$50 (50% reduction for first late filing)

**3. Penalty Determination: James D. Atwood**

- Candidate for York County Treasurer.
- Campaign received \$1,078.44 for election (\$828.44 from the candidate plus \$250 from another contributor).
- Candidate failed to file 6-day pre-general election report due October 30, 2002.
- Commission staff mailed failure-to-file letter on November 1, 2002 and Final Notice on December 4, 2002.
- Candidate ultimately filed report on July 15, 2003 in response to reminder notice from staff about upcoming deadline.
- On July 28, 2003, Commission staff mailed preliminary penalty determination of \$2,781.24. Candidate did not respond with a request for a determination by the Commission.
- On July 28, 2003, Commission Director spoke with candidate by telephone and mailed additional letter.
- In response to Commission letter dated October 17, 2003, candidate requested a determination by the Commission.

Statutory penalty: \$2,781.24

Staff recommendation: A 50% reduction for first late filing would be appropriate. A further reduction because of the size of the campaign may also be appropriate.

## **Referrals to Attorney General**

### **4. Rep. Edward DuGay (referral for two matters)**

- Candidate ran for House of Representatives in the 2002 General Election

#### Failure to Pay Penalty of \$310.50

- Candidate filed the 6-day pre-general election report three days late on November 2, 2002.
- Candidate did not respond to a preliminary penalty determination dated November 12, 2002 or a letter from Commission Director dated January 10, 2003.
- On May 23, 2003, the candidate submitted a \$50 check, and, on June 20, 2003, a letter proposing a monthly payment plan. The check was returned for insufficient funds.
- On July 11, 2003, the Commission wrote the candidate and requested a replacement check, but no response was received. To date, the entire \$310.50 remains unpaid.
- On August 20, 2003, the Commission director left a telephone message at the candidate's residence requesting a return call, but none was made.
- On October 17, 2003, the Commission Director mailed a letter stating that at its November 6, 2003 meeting the Commission would consider referring the candidate to the Attorney General for his failure to pay the penalty and the failure to file a July 15, 2003 report.

#### Failure to File Semi-Annual Report on July 15, 2003

- Because campaign had a cash balance of \$397.00 after the election, candidate was required to file a semi-annual report on July 15, 2003.
- On July 18, 2003, Commission staff mailed a failure-to-file letter.
- On August 20, 2003, Commission director mailed a Final Notice informing candidate that Commission would consider referring him to the Attorney General's Office. On the same date, the Commission director left a message at candidate's residence requesting a return telephone call, but none was made.
- On October 17, 2003, the Commission Director mailed a letter stating that at its November 6, 2003 meeting the Commission would consider referring the candidate to the Attorney General for his failure to pay the \$310.50 penalty and the failure to file the July 15, 2003 report.

### **5. John Fink (referral for failure to file 7/15/03 semi-annual report)**

- Candidate for House of Representatives in the 2002 General Election.
- Previously referred to Attorney General for failure to file 42-day post-general election report due December 17, 2002. On June 23, 2003, candidate responded to the Attorney General by e-mail stating that he would file report, but it has not been filed.
- Now before Commission for failure to file semi-annual report due July 17, 2003 which is required because of post-election cash balance of \$981.42.
- Commission staff mailed a failure-to-file letter on July 18, 2003.
- On August 20, 2003, Commission Director spoke to treasurer who stated that both reports would be filed within five days.

- Commission Director mailed final notice on August 20, 2003 informing candidate that he would be considered for referral to Attorney General for failing to file the July 15, 2003 semi-annual report.

#### **6. Rep. Joseph Perry**

- Candidate filed 42-day post-general election report six days late on December 23, 2002.
- Candidate did not respond to a January 13, 2003 preliminary penalty determination of \$205.56 by staff, or to Final Notice dated March 6, 2003 notifying candidate that the Commission would consider referring him to Attorney General.
- Candidate has stated to Commission director by telephone twice (on July 26, 2003 and October 31, 2003) that he does not dispute penalty and intends to pay it.
- Candidate has promised to personally deliver check for \$205.56 on Nov. 3 or 4.

#### **7. Return of Maine Clean Election Act Funds – Sen. Kevin L. Shorey**

In his 2002 campaign, Senator Kevin L. Shorey used MCEA funds to purchase a digital camera, a trailer, and a U-Haul trailer hitch that were reported to be worth a total of \$1,125 as of December 17, 2002. Under Chapter 3, Subsection 7(2)(C) of the Commission Rules, the candidate was required to sell these goods to himself or another person, and return the proceeds to the Fund. The Commission staff has written two letters to the candidate requesting the money, and spoken to him by telephone. Sen. Shorey has assured staff that the Commission will receive the funds prior to the Nov. 6 meeting.

#### **8. Commercial Use of Contributor Information**

Two private companies have inquired into whether there are restrictions on their use of information regarding contributors on the Commission's Web site. One company described itself as a "list company" in Washington D.C., which likely sells or uses lists of contributors for political fundraising and marketing. Although no restrictions exist in Maine law, some jurisdictions limit the ability of private entities to use contributor information for commercial purposes.

#### **9. Update on Ethics Commission's Request for Clean Election Funds**

#### **10. Request by House Republican Leaders to Address Commission**

House Minority Leader Joseph Bruno and Assistant Minority Leader David E. Bowles wish to address the Commission regarding the Clean Election program. They are unable to attend at the November 6 meeting.

#### **11. Other**

Miscellaneous as needed.

#### **EXECUTIVE SESSION**

If necessary.

#### **ADJOURNMENT**